

**REMARKS**

At the outset, Applicant's representative wishes to thank Examiner Moore for the telephonic interview on September 8, 2006 to discuss possible amendments to the pending claims. Per Examiner Moore's suggestion, Applicant has also provided herewith a copy of the Revocation of Power of Attorney New Power of Attorney, and Change of Correspondence Address as previously filed on September 8, 2006, and facsimile evidencing receipt of same by the USPTO.

Applicant wishes to thank Examiner Moore for the indication of allowable subject matter of Claims 2, 7, 12, 13, 16, and 17 if such claims are rewritten in independent form including all limitations of the base claim and any intervening claims. Claim 1 has been amended. Claim 2 has been canceled. Upon entry of these amendments, Claims 1-10, 12-17 and 28-30 are pending. Claims 5, 6, 8, 9, and 23-25 remain withdrawn from consideration. Thus, Claims 1-4, 7, 10, 12-17, and 30 are under active consideration. Claims 1 and 25 are independent.

In particular, Claim 1 has been amended to be rewritten in independent form including all limitations of the base claim and any intervening claims. Applicant submits respectfully that the amendment to Claim 1 finds support in claim 2 as originally filed and, thus, does not represent new matter.

In accordance with the requirements of 37 C.F.R. Section 1.121(h), Applicants have provided herewith the required entire "Amendments to the Claims". This document provides the full set of pending Claims. The document also provides the claim status identifier required for each claim. This set of claims replaces all prior versions and listing of claims in the application.

Applicants respectfully request entry remarks made herein into the file history of the present application.

**I. The Rejection of Claims 1, 4, 7, 10, 14, 15, and 30 Under 35 U.S.C. § 103 as Being Anticipated by Lezdey *et al* (U.S. Patent No. 6,566,331) in View of Herbert *et al*.**

At page 3 of the Office Action, Claims 1, 4, 7, 10, 14, 15, and 30 are rejected under 35 U.S.C. § 103(a) as allegedly being anticipated by Lezdey *et al.* (“Lezdey”), in view of Herbert *et al.*. Applicant respectfully traverses the rejection.

Without acquiescing in the propriety of the objections and solely to advance prosecution, Applicant has amended Claim 1 to now recite the additional step of “and monitoring a decrease in apoptosis.” Applicant respectfully submits that the primary reference of Lezdey does not teach or suggest the step of monitoring a decrease in apoptosis. The secondary reference of Herbert *et al* does not cure the above-discussed deficiency of Lezdey. Thus, the proposed combination fails to disclose, teach, or suggest the additional step of monitoring a decrease in apoptosis.

Accordingly, Applicants respectfully submit that the rejection of Claims 1, 4, 7, 10, 14, 15, and 30 under 35 U.S.C. § 103(a) has been overcome and withdrawal thereof is respectfully requested.

**II. The Rejection of Claim 3 Under 35 U.S.C. § 103(a) as Being Anticipated by Lezdey *et al* (U.S. Patent No. 6,566,331) in View of Herbert *et al*, and Further in View of Lezdey (U.S. Patent No. 5,134,119).**

At page 5 of the Office Action, Claim 3 is rejected under 35 U.S.C. § 103(a) as allegedly being anticipated by Lezdey *et al.* (“Lezdey”), in view of Herbert *et al.*, and further in view of Lezdey *et al* (U.S. Patent No. 5,134,119). Applicant respectfully traverses the rejection.

Without acquiescing in the propriety of the objections and solely to advance prosecution, Applicant has amended Claim 1 to now recite the additional step of “and monitoring a decrease in apoptosis.” Applicant respectfully submits that the primary reference of Lezdey (U.S. Patent No. 6,566,331) does not teach or suggest the step of monitoring a decrease in apoptosis as required by Claim 1 as amended. The secondary references of Herbert *et al* and Lezdey (U.S.

Patent No. 5,134,119) do not cure the above-discussed deficiency of Lezdey. Thus, the proposed combination fails to disclose, teach, or suggest the additional step of monitoring a decrease in apoptosis as required by Claim 1 as amended. As Claim 3 depends upon Claim 1, Applicant respectfully submit that the rejection of Claim 3 under 35 U.S.C. § 103(a) has been overcome and withdrawal thereof is respectfully requested.

**The Objection to Claims 2, 7, 12, 13, 16, and 17**

At page 5 of the Office Action, Claims 2, 7, 12, 13, 16, and 17 are objected to as being dependent upon a rejected claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Without acquiescing in the propriety of the objections and solely to advance prosecution, Applicant has amended Claim 1 herein to incorporate the limitations of Claim 2. Applicant believes that, in view of the amendment to Claim 1, no amendment is necessary for Claims 7, 12, 13, 16, and 17.

In view of the amendment to Claim 1, Applicant respectfully submits that the objection to Claims 2, 7, 12, 13, 16, and 17 has been obviated and withdrawal thereof is respectfully requested.

**CONCLUSION**

Applicant submits that the application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and an early Notice of Allowance are requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 373-6122. All correspondence should be directed to Customer Number 23,639.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any fees due in connection with this filing to Deposit Account 19-5127 (7049782001) or credit any overpayment to same.

Respectfully submitted,

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